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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,214

04/25/2006

Guy Jouhannet

505478

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10/08/2009

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EXAMINER

HELLING, KAITLYN ELIZABETH

ART UNIT

PAPER NUMBER

3739

NOTIFICATION DATE

DELIVERY MODE

10/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhartlaw.com

Office Action Summary	Application No. 10/577,214	Applicant(s) JOUHANNET, GUY	
	Examiner KAITLYN E. HELLING	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/29/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to for the following informalities:
 - a. Reference number 6 is referred to as a tongue in the detailed description of the drawings and as an articulation in the claims.
 - b. Reference number 7 is referred to as an elastic envelope in the detailed description of the drawings and as elastic membranes and a flexible and/or elastic sheet in the claims.
 - c. Figures 4 and 5 fail to show a selected articulation as claimed.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The structure which goes to make up the device must be clearly and positively specified.
3. Claim 1 recites the limitations "the elastic solid bodies" and "the elastic envelope" in lines 9 and 12 respectively. There is insufficient antecedent basis for this limitation in the claim.
4. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-28, the examiner requires further clarification with regards to the articulations. It appears that applicant is trying to claim a Markush grouping of articulations where there are potentially three different articulations that can be selected. In general, further clarification with respect to the articulation structure is required. The examiner has particularly pointed out the indefiniteness of certain features for the applicant below. However, applicant is respectfully encouraged to review the claims in their entirety.

In the first possible articulation selection applicant is claiming "elastic solid bodies that are attached to the blocks and thus form at least part of the above-mentioned deformable thermal substance." It is unclear as to how the elastic solid bodies can be attached to the blocks and form a part of a deformable thermal substance.

In the second possible articulation selection applicant is claiming "the elastic membranes that are attached to the blocks and put under tension so as to compress a deformable body present in the interstices, said deformable body forming at least part of the deformable thermal substance." It is unclear as to what applicant is referring. From the drawings it appears that applicant is referring to the outer envelope 7 as referenced in the claims. However, the language of the claims makes this unclear as it is possible that applicant is referring to the articulations as depicted in the drawings as reference number 6 as these are what are actually connecting the blocks. Similarly, what is the deformable body present in the interstices? Further clarification is required.

In the third possible articulation selection applicant is claiming "the articulations are permeable to a fluid present in the interstices." It is unclear as to as to what structure applicant is claiming to be the articulation structure. It is not possible to determine the permeability property of the articulations if the structure cannot be discerned. Further clarification is required.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2,595,328 to C.T. Bowen which teaches a heat transfer container (title and Figs. 1-3) wherein the illustrative embodiment of the invention is a flexible container or pad (5) which contains a heat-storing substances (6) enclosed in a fluid-tight flexible receptacles (8), and also has a heat-transferring flowable material (7) disposed between the walls of the container and the receptacles where the receptacles are spaced apart and hingedly connected to one another in flexible and stretchable zones (9) for facilitating flexure. This construction and arrangement allows for maximum hinging. Please see entire document and particularly Col. 1, line 49-Col. 2, line 10 and Col. 2, lines 27-54.

Applicant is also directed to US 5,383,919 which teaches a thermal therapy pad (title) including an inlet and outlet port, US 5,840,080 which teaches a hot or cold applicator with inner element (tile), US 2,154,933 which teaches a flexible refrigerating pad shaped to fit an article to be maintained in a refrigerated condition, US 4,311,022 which teaches a foldable ice pack, and US 4,765,338 which teaches a heat transfer device for the scalp (title).

6. The examiner notes that the shape of the blocks and their formation will be considered an obvious matter of design choice by one having ordinary skill in the art at the time of the invention as there is no disclosed criticality in the specification (see Specification pg. 7, line 14-pg. 8, line 4). This is also true for shapes of the interstices which applicant admits on pg. 8, lines 5-14 are parameter dependent.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is

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(571)270-5845. The examiner can normally be reached on Monday - Friday 9:00 a.m. to 5:30 p.m. EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571)272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. E. H./
Examiner, Art Unit 3739

/Roy D. Gibson/
Primary Examiner, Art Unit 3739